



Signed and Filed: March 30, 2011

THOMAS E. CARLSON  
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re

DEMAS WAI YAN,  
aka DENNIS YAN,

Debtor.

TONY FU, an individual,

Plaintiff,

vs.

DEMAS YAN, an individual,  
d/b/a YAN LAW OFFICE,

Defendant.

DEMAS YAN, an individual,  
and YAN LAW OFFICE,

Cross-Plaintiff,

vs.

TONY FU aka DONG XING FU, CRYSTAL LEI aka  
LI MING LEI, STELLA HONG CHEN aka HONG  
XING FU aka HONG XING CHEN, BRYANT FU  
and WEI SUEN,

Cross-Defendants.

Case No. 04-33526 TEC

Chapter 7

Adv. Proc. No. 10-3152 TC

UNITED STATES BANKRUPTCY COURT  
Northern District of California  
I certify that this is a true, correct and full copy  
of the original document on file in my custody.  
Dated APR - 8 2011  
by DAWANA CHAMBERS  
Deputy Clerk

ORDER REMANDING DEFAMATION COMPLAINT TO STATE COURT AND  
DISMISSING CROSS-COMPLAINT WITH PREJUDICE

1 On February 18, 2011, the court signed an Order re Rule 12(b)(6) Motions to Dismiss and  
2 Motion to Remand (Order). The Order granted the motions to dismiss and required Debtor to file an  
3 amended cross-complaint by no later than February 28, 2011. The Order also provided that the court  
4 would rule on Debtor's motion to remand Tony Fu's defamation claim after determining whether the  
5 amended cross-complaint stated a claim upon which relief could be granted.

6 Debtor did not file an amended cross-complaint. Rather, Debtor filed a motion to alter or  
7 amend the Order.

8 Upon due consideration, because Debtor did not file an amended cross complaint, because  
9 the Order expressly provided for dismissal of the cross-complaint with prejudice if Debtor failed  
10 timely to file an amended cross-complaint, because the Order was not automatically stayed<sup>1</sup> and  
11 Debtor did not seek or obtain a stay of the Order, and because the sole remaining claim in this action  
12 is Tony Fu's post-petition defamation claim against Debtor over which this court has no jurisdiction,  
13 the court hereby orders as follows:

14 (1) Tony Fu's complaint for defamation filed against Demas Yan on July 6, 2010 in San  
15 Francisco Superior Court Case No. CGC 10-501321 (the State Court Action) is remanded to the San  
16 Francisco Superior Court.

17 (2) The cross-complaint filed in the State Court Action on August 9, 2010 by Demas Yan  
18 against Stella Chen, Crystal Lei, Wei Suen, Tony Fu, and Bryant Fu, and removed to this court on  
19 August 31, 2010, is dismissed with prejudice.

20 **\*\*END OF ORDER\*\***

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<sup>1</sup> Fed. R. Bankr. Proc. 7062(b)(3).